

**MANY
AFFIDAVITS
DEFEND
THE JURY**

Only Sheriff and
Officers of

His Force Talked to
Mem-

Bers of the Frank Jury Dur- ing Trial.

To the thirty-odd affidavits made public yesterday in the exchange of affidavits between the state and the defense in the Leo M. Frank motion, which comes up today, several new ones were added Tuesday afternoon by the state. The additional affidavits were from the various deputy sheriffs and bailiffs and were denials that anyone but officers of the court had talked to the Frank jurors.

The state has prepared affidavits from the various jurors in which they declare that only the legal evidence influenced them and also deny that they were swayed by the cheering for the solicitor, or that any of them were biased, or discussed the case among themselves prior to Judge L. S. Roan's charge.

The state is preparing to impeach several of the maker of affidavits against Jurors A. H. Henslee and M. Johenning in which it was charged that these two men had, before the trial, expressed animus towards the defendant, then indicted for the murder of Mary Phagan.

Aaron Out on Bond.

Samuel Aaron, whose affidavit states that Henslee declared at the Elks' club that he wanted to see Frank hang, is now out on a \$500 bond from Justice C. H. Girardeau's court, where he is charged with larceny. He is due to appear Saturday morning for a hearing. A detective discovered this when working in the interests of the state Tuesday afternoon and it is believed that the state intends to bring this in an effort to impeach Aaron's testimony.

T. M. Webb also furnished the state with an affidavit in which he declared he would not believe Aaron on oath.

From W. J. Clayton, of the Central Carriage company, Solicitor General Hugh M. Dorsey secured an affidavit in which Clayton asserted that he would not believe W. P. Neill on oath. Neill was one of the defense's affiants who stated that during the trial he saw a spectator in the courtroom grab a juror by the arm and talk to him.

Other affidavits supporting the character and standing of both Henslee and Johenning were made public by the state and also Henslee denies that he was in various Georgia towns at the time it is alleged he gave vent to expressions of bias.

That the hearing of the motion will be taken up Wednesday morning without doubt was the statement made by both the solicitor and Attorneys Luther Z. Rosser and Reuben R. Arnold, attorney's for the defense.

"I know for no reason in the world why the hearing should not be taken up tomorrow," said Attorney Rosser in his office Tuesday, where he and Attorney Arnold were discussing the case.

"We won't be the ones to postpone it," added Mr. Arnold.

"There certainly will be no effort on our part to prolong it," was Solicitor Dorsey's comment when asked as to the possibility of another postponement.

Will Decide on Place.

The attorneys for both sides will meet at 9 o'clock in the chambers of Judge L. S. Roan on the fourth floor of the Thrower building and will decided upon a place to hold court.

Judge Answer E. Calhoun's division of the city court is now being held in the room which he and Judge Roan have used alternately in the makeshift courthouse. In the old city hall building the three divisions of superior court and the civil division of the city court are in session.

Where the motion will be heard is yet unknown, but it is believed that arrangements will be made for a hearing in one of the courtrooms in the old city hall building, possibly the one in which Frank was tried and convicted.

In affidavits from all the jurors,

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Nine.***

***JURY IS
DEFENDED***

***BY THIRTY
AFFIDAVITS***

***Continued From Page
One.***

except F. V. L. Smith, who is out of town, the state endeavors to prove that the jurors made their verdict only from the evidence and were not swayed by the crowds in the courtroom and on the streets, or by the prolonged cheering for the solicitor.

Deputy Sheriff Plennie Miner, who was in charge of the courtroom during the trial, states in an affidavit that no one talked with a juror as the jury was passing out of the courtroom.

Deputies Foster Hunter and Bob Deavors and Bailiffs Charlie Huber and A. P. Pennington deny in affidavits that persons on the streets approached and talked to the jurors as they were being taken to and from the courtroom or eating place. The two bailiffs deny that they heard cheering on August 22 and 23 while they accompanied the jury to the hotel and to the restaurant.

In his affidavit, Henslee declares that he was telling the truth when he answered the challenge when he was sworn in, and that he later made his verdict from evidence and not from bias. He also declares that he voted "doubtful" on the first ballot in order to cause a free and open discussion among the jurors, and that later when he cast his vote of "guilty" that he realized the gravity of the situation and wept as he voted.

Never Formed an Opinion.

Henslee says that he, in common with everyone else, read the newspaper accounts of the case and discussed it, but that he never formed an opinion further than that "whoever killed Mary Phagan ought to hang."

The attacked juror denies that he was in Albana, Ga., between June 3 and September 18. He offers the affidavit of a hotel clerk to support this statement.

Further, Henslee states that he does not know R. L. Gremer in Albany. He states that he does not remember talking to Mack Farkas in Albany, and that in his conversation with Sam Farkas he did not say who he believed was guilty. These men, in affidavits,

declared that Henslee had expressed belief in Frank's guilt previous to the trial.

Denies His Statement.

The juror also denies the statement of J. A. Lehan, who declared that on the train, near Experiment Station, Henslee expressed his belief in Frank's guilt. Henslee swears that on the occasion mentioned he was not within 200 miles of Atlanta or Experiment Station.

In answering the statements of Shi Gray, S. M. Johnson and John M. Holmes, of Sparta, who stated that after Henslee had been served with notice that he was draw on the Frank jury venire that he was in Sparta, and expressed animus against Frank, the juror declares that he was not there at the time. Henslee states that he came to Atlanta from Athens on July 25 and received his jury notice that night at 74 Oak street, West End, and did not leave town until after the trial.

He declares that after Frank had been convicted he visited Sparta and talked the case over with the three men and told them he believed Frank guilty and a pervert.

Juror Johenning, the other one of twelve attacked by the defense, denies the statement made by H. C. Lovenhart that he express belief in Frank's guilt.

Johenning states that at one time, but not in the month mentioned by them, that he talked with Mrs. Jennie Lovenhart and Miss Miriam Levenhart and said in the conversation that "the newspapers seem to have convicted Frank," and that when they expressed their belief in his innocence, that he replied, "Well, the outlook from the papers doesn't seem to be very bright for him. I think he's going to have a hard time in getting loose."

Johenning declares further in his affidavit that at the time he was sworn in as a juror that he held no bias or prejudice in his mind.

In upholding Juror Jochenning the state introduces the affidavits of Dr. J. C. Robinson and F. W. McGarity and others, who attest his good character. Juror Henslee is similarly upheld by W. M. Howard, J. C. Collier, T. W. Cochran, P. L. Gordy, C. O. Summers, J. E. Howard and other well known men of Barnesville, and by J. D. Lochridge, of Douglas, Ga.

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BONDING COMPANY IS SUED AS SECURITY

For the use of T. M. Smiley, doing business as the Smiley-Sand company, the city of Atlanta brought suit yesterday against the American Bonding company, of Baltimore, security for Chester A. Daddy, who contracted to build A. Daddy, who contracted to build the Peachtree disposal plant.

The suit is for \$67.82, alleged to be a bill unpaid for sand which Smiley supplied for the plant. That Daddy has been adjudicated a bankrupt, and a receiver appointed for his affairs, is stated in the petition filed in superior court by Attorneys Dorsey, Shelton & Dorsey. The petition asks the principal sum, with interest from February 5, 1913.

Recently the city brought a similar suit against the bonding company for several thousand dollars, suing in that case for the

use of the R. O. Campbell Coal company, which has supplied lime and cement and coal to Daddy.

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DETECTIVES PROBE CONSPIRACY CHARGE

Capt. Burke Offers to
Furnish

Counsel for Shirley
With

Address of Joe Hicks in Birmingham.

Also suspecting a plot in the weird story of Ira W. Fisher, the Birmingham witness, Captain C. W. Burke, who brought the man to Atlanta for Rosser & Brandon, has offered to give to the Atlanta police department the address of Joe Hicks, who is sought as an accomplice of Fisher in the alleged conspiracy to blackmail J. C. Shirley.

Burke stated that he was at a loss to explain Fisher's tale, but that, so far, he had been utterly unable to catch the man in a falsehood. Strong denial is made of the prisoner's accusation that Burke held him forcibly in the Rosser offices in the Grant building Sunday.

Captain Burke Puzzled.

"I am at a loss to account for the whole affair," he declared. "It could have been caused by most anything. I would not be surprised at whatever arose. However, if there is the least bit of foundation to the suspicion of conspiracy to blackmail, I am willing to do my share toward running it down."

"I will first offer to do this much. That is, furnish the detectives with the address of Joe Hicks. They seem to want him badly. Hicks is suspicious. I caught him in several lies. I never did relish his connection with the case, my attitude in which was merely that of 'messenger.' I was sent to Birmingham to bring the man to Atlanta. Beyond that, this was all I had to do with it."

"I have washed my hands clean of Fisher. My work was completed when I brought him to Atlanta and turned him over to

the men who had dispatched me for him. I am willing, though, to pay his fare back to Alabama, which I agreed to do upon requesting him to come over."

Will Send Man to Birmingham.

Plans are being made by counsel for J. C. Shirley to send a private investigator to Birmingham to probe the connection of Joe Hicks with Ira W. Fisher's accusation of Shirley, which created such sensation in the Leo M. Frank case, and which has resulted in Fisher's imprisonment on charge of libel.

Charles J. Graham, Shirley's attorney, declares that Hicks should be arrested, and that a warrant will probably be issued against him immediately upon the arrival of the investigator in Birmingham. The Birmingham police have been notified, it is said, and men put on the alleged "accomplice's" trial.

A development in the situation Tuesday that caused much interest and speculation was a statement made by Probation Officer Sidney J. Coogler, of police headquarters, to the effect that he believed Fisher was verging on a breakdown, and, as a result, would confess either to a conspiracy to blackmail Mr. Shirley or to having concocted the weird tale during a spree from drink or drugs.

Fisher Professed Religion.

Coogler, at one time, was Fisher's spiritual adviser. That was when the prisoner was under probation from drunken and disorderly conduct which he had created at home during the latter part of 1912. Fisher professed religion, Mr. Coogler says, and strove to throw off the shackles of drink.

"The man has been on a terrible drunk," Coogler told Constitution reporter. "He is almost wild. It was either whiskey or drug. I'm inclined to think it was both. He is getting sober now, and regaining his normal sense. Then, I'm satisfied he will tell the truth of the whole business."

Coogler visited Fisher's cell frequently Tuesday. When he first called, Fisher maintained the story he has told all along. Mr. Coogler impressed upon him the seriousness of his predicament, and the penalty he would suffer in case of conviction. It seemed to have its effect.

Later, when Coogler talked with the man, Fisher seemed in a dilemma. He appeared confused and irresolute. The probation chief remained in the cell for an hour or more, expecting each moment the man to break down and tell his secret. Fisher finally asked that Coogler leave the place, saying he wanted time to think.

"Very well, Ira," said Coogler as he stepped from the cell, "whenever you need me, don't hesitate to call."

Chief Lanford says that Fisher is endeavoring to shield Joe Hicks in some manner. Monday night, while the mysterious "Witness" was telling of Hicks accompanying him to the office of the chief of police in Birmingham, Lanford pressed him closely regarding the alleged "accomplice." Fisher immediately strove to shift the subject, obviously trying to have as little as possible to say about the man.

Conspiracy Theory.

"I believe this is a conspiracy and nothing else," said the chief. "It fell down purely because of Fisher's inability to tell a plausible tale and supply the necessary details. He is a clever liar—that much is plain—but, he can't undergo cross-examination and get away with it."

Attorney Graham intimates strongly that the case will be put before the grand jury. Solicitor General Hugh Dorsey said, however, that Graham had not communicated with him toward this end. It is said that the lawyer and solicitor will confer some time today after Fisher's hearing in Judge Puckett's court, which will be held this morning. The exact hour has not yet been set.

Fisher does not want bond. He says he does not care to be liberated. As to the outcome of the case, he tells reporters that it cannot have but one end, and that is exoneration, as "he is telling the immaculate truth in every respect." He spends most of his time pacing up and down the tier leading to his cell, smoking cigarettes incessantly. He is nervous, in fact more so Tuesday than at any other time since he first told his story.

That he will be prosecuted relentlessly is declared by the man he accuses. Either that or an effort will be made to send him to the asylum. Russell and Frank Shirley, brothers to the furniture dealer, are more determined to punish the man than Mr. Shirley himself. The latter does not take the affair quite so seriously. He believes that Fisher should be adjudged insane.

All Tired of Him.

The warrant against him was issued by Russell Shirley. Attorneys' fees are being paid by the man Fisher accuses. Mr. Shirley Tuesday afternoon carried to the office of Chief Lanford a number of books of his firm to prove his alibi on the day Mary Phagan was slain. The chief laughingly gave a glance at the volumes, then returned them, saying that no credence whatever was put in the accusation.

Rosser and Arnold are through with Fisher. They have literally washed their hands clean of him. Their only future connection in any respect will be to pay his return fare to Birmingham, which was promised by C. W. Burke, when the man was brought to Atlanta. Burke, in talking to reporters, stated he was unable to catch Fisher in a single falsehood.

Hicks Not Located.

Birmingham, Ala., October 21.—(Special)—While he has no warrant on which to arrest him, Chief of Police Bodeker said tonight that he understood that Joe Hicks was an engineer on the Louisville and Nashville road and runs between Etowah, Tenn., and Atlanta, or Etowah and Knoxville.

Chief Bodeker said that he had heard much of the Frank case in the last week or so and that he did not believe Frank was guilty, but had nothing definite at hand to work on.

He said he turned Fisher and his statement over on what it was worth, and that was all he could say about that phase of the case. The chief said he did not believe Hicks was in Birmingham.

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